IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 5002 of 1995

Between:

1 Gangaiah, S/o.Lingaiah,
R/o.Lolam Village, Dilawarpur Mandal, Adilabad District.
2 Buchanna, S/o.Gangaram,
R/o.Lolam Village, Dilawarpur Mandal, Adilabad District.

..... PETITIONERS

AND

1 The District Collector, Adilabad.
2 The Revenue Divisional Officer,
Nirmal, Adilabad District.
3 The Mandal Revenue Officer,
Dilawarpur Mandal, Adilabad District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ preferably in the nature of Mandamus under Art.226 of the Constitution of India and declare the notice issued by respondent No.1 under section 166-B of the Land Revenuef (TA) Act, Dt.27/10/1994 in proceedings No.Rc.No.B1/5270/94 as illegal, in respect of land in S.No.798/4 in an extent of Ac.6-13 guntas without jurisdiction and contrary to law.

Counsel for Petitioners: SMT. V.LAKSHMI DEVI

Counsel for Respondents: GOVERNMENT PLEADER FOR REVENUE

The Court made the following:

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ORDER:

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This writ petition is filed seeking Writ of Mandamus, to declare the notice issued in proceedings No.Rc.B1/5270/94, dated
27-10-1994 as illegal and arbitrary.

The said notice is issued to cancel the assignment of land to the petitioners in Survey No.798/4 situated in Kalva Village, Dilwapur Mandal of Adilabad District. The impugned notice is issued in exercise of powers under Section 166-B of the A.P. (Telangana Area) Land Revenue Act 1317 Fasli, calling explanation from the petitioners to show cause why the land assigned in their favour should not be cancelled. In the said proceedings, two reasons are indicated, namely, that the assignees are the Government Servants and, secondly, they are cultivating another piece of land instead of patta land.

In the affidavit filed in support of the writ petition, it is stated that they are cultivating the land, which was assigned to them and when there was interference with their possession by one Hanumantha Reddy, they filed civil suits in O.S.Nos.288 and 289 of 1993 on the file of the District Munsif, Nirmal and obtained injunction orders. It is also their case that the impugned proceedings are initiated at his instance. With regard to allegations in the impugned proceedings, it is categorically stated that the petitioners are in possession of the land, which is assigned to them and they are not the Government Servants as on the date of assignment of the land.

Though the writ petition is of the year 1995, no counter affidavit is filed.

With regard to allegations in the impugned proceedings, it is to be seen, it is categorically stated that the petitioners are in possession of the land, which is assigned to them and they are not the Government Servants as on the date of assignment of the land. Even with regard to further allegation that they are cultivating another piece of land, it is to be seen, no particulars are mentioned, as such the same is vague and is incapable of being answered. In that view of the matter, both the grounds as mentioned in the proceedings cannot be sustained. As such, the notice dated 27-10-1994 in proceedings No.Rc.B1/5270/94 is set aside.

The writ petition is accordingly allowed. No costs.

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R.SUBHASH REDDY, J

Dated: 06th December, 2004.

Ak/Msnr

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this

Monday the sixth day of December, Two thousand and four.

To

1. The District Collector, Adilabad District, Adilabad.

2. The Revenue Divisional Officer, Nirmal, Adilabad District.

3. The Mandal Revenue Officer, Dilawarpur Mandal,

Adilabad District.

4. Two CCs to the Government Pleader for Revenue, High Court

Buildings, Hyderabad (O.U.T).

5. Two CD copies.